

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 601 (Delegate Niemann, *et al.*)
Health and Government Operations

Public Health - Chain Restaurants - Nutrition Information Labeling

This bill requires chain restaurants to provide nutrition information for standard menu items. Violators are subject to fines.

Fiscal Summary

State Effect: Any limited role the Department of Health and Mental Hygiene (DHMH) may have in enforcement can be handled with existing resources.

Local Effect: Local health departments can handle the bill's requirements as part of their regular inspections, assuming they take responsibility for enforcement of the bill. Potential minimal increase in revenues due to the bill's monetary penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: A chain restaurant is a food establishment that has 15 or more locations nationally, does business under the same trade name, and offers predominantly the same type of menu in each location. A standard menu item does *not* include a temporary menu item that appears on the menu for less than 30 days, or condiments and other items placed on the table or counter for general use without charge.

In general, a chain restaurant has to provide nutrition information for a standard menu item, including the total number of calories, grams of saturated fat including trans fat, grams of carbohydrates, and milligrams of sodium. Information must be calculated on a

per serving basis as the standard menu item is usually prepared as well as obtained and expressed in a manner consistent with the Federal Food, Drug, and Cosmetic Act.

A chain restaurant may limit the information for items only listed on a menu board or offered through a salad bar, buffet line, cafeteria service, or other arrangement where food is on display. However, the chain restaurant has to provide the remaining information when a customer orders the food. In addition, the bill specifies guidelines for menu items that come in different flavors, varieties, or combinations.

The bill outlines the way nutrition information has to be provided and requires that the following statement be included on a menu board: “A 2,000 calorie daily diet is used as the basis for general nutrition advice; however, individual calorie needs may vary.”

A county may designate a representative from the local health department to enforce the bill’s provisions. If no representative is designated, DHMH is charged with enforcement. The enforcement entity does not have to verify the accuracy of the nutrition information, but it may request that the chain restaurant provide documentation of its accuracy.

The enforcing entity can issue civil citations to violators of the bill and impose a civil penalty of up to \$500 for the first violation and up to \$1,000 for each subsequent violation. Penalties imposed by local health departments are paid into the general fund for the county where the violation occurred. No more than one violation can be issued per inspection.

Current Law: State law does not address nutrition labeling in restaurants. Local health departments inspect and license restaurants.

Background: Americans are eating at restaurants more frequently than ever. While Americans spent 26% of their food dollars on away-from-home foods in 1970, about 46% of Americans’ food dollars were spent this way in 2006. Eating away from home can contribute to an unhealthy diet and obesity, which are leading causes of premature death, disabilities, and high health care costs in the United States.

While the Federal Nutrition Labeling and Education Act of 1990 requires nutrition labeling on foods regulated by the U.S. Food and Drug Administration, restaurants are exempt from the labeling requirements. California, as well as the cities of Philadelphia, Seattle, and New York passed laws requiring chain restaurants to provide nutrition information to customers.

Additional Information

Prior Introductions: None.

Cross File: SB 142 is designated as a cross file; however, it is not identical.

Information Source(s): American Journal of Preventive Medicine, Center for Science in the Public Interest, Department of Health and Mental Hygiene, Department of Legislative Services

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